

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 2894 of 2007(Y)

PETITIONER:

**P. VIDHYADHARAN PILLAI, VYSHNAZHICATHU
THEKKATHIL VEEDU, KAIKULANGARA,
KOLLAM-13., RTD, LASCAR, IRRIGATION DEPT.,**

**BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR**

RESPONDENTS:

- 1. STATE OF KERALA, REPRESENTED BY
DEPUTY SECRETARY, PUBLIC WORKS DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE CHEIF ENGINEER (IRRIGATION)
THIRUVANANTHAPURAM.**
- 3. ASSISTANT EXECUTIVE ENGINEER,
INLAND NAVIGATION SUB DIVISION,
KOLLAM.**

BY GOVERNMENT PLEADER SRI. P.NANDAKUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C) NO: 2894/2007 T

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE RELEVANT EXTRACT OF THE ORDER OF THE DIST. COLLECTOR
DT.2/09/1968.

EXT.P2. COPY OF THE JUDGMENT IN WA NO. 1681/2000 DT. 21/3/2002.

EXT.P3. COPY OF THE ORDER OF THE RESPONDENT DT. 23/12/2006.

True copy

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K.BALAKRISHNAN NAIR,J.

WP(C)NO.2894 OF 2007-T

Judgment

The petitioner was a Lascar in the Irrigation Department. He retired from service at the age of 55 years on 30.09.1993. After being appointed as a Seasonal Worker in the Malaria Eradication Unit at Kollam, he was appointed as Chainman on daily wage basis in the Revenue Department as per Ext.P1 order of the District Collector dated 02.09.1968. Later, certain new posts of Chainman were sanctioned in the land tribunals constituted under the Kerala Land Reforms Act and the petitioner was posted to one of those posts in the regular establishment. He was appointed on a regular basis as Chainman on 05.05.1971, it is submitted. While working as Chainman, he was transferred to the Irrigation Department as Lascar in 1978. Though he claimed retention in service till the age of 60 years, by virtue of Rule 60(b) of Part I KSR, the same was not granted by the authorities. So, he filed OP No.13055/93 before this Court. This Court dismissed the said OP. But, WA No.656/94 filed against the said Judgment was allowed by Judgment dated 05.11.2005 and the Government was directed to reconsider his claim. The claim was reconsidered and rejected by Ext.P3 order dated 23.12.2006. So, this Writ Petition is filed, challenging Ext.P3 and also seeking consequential reliefs.

2. I heard the learned Government Pleader appearing for the respondents also. The persons, who were in regular service on 07.04.1970 alone were eligible for the benefit of Rule 60(b) of Part I KSR. But, the rigour of the said Rule has been relaxed by the

Government by several orders. One of them is GO(P)No.564/89/FIN dated 29.11.1989. As per that order, the contingent employees who are appointed on or after 01.04.1969 but before 07.04.1970 are also entitled to get the benefit of Rule 60(b). The case of the petitioner is squarely covered by that GO. A Full Bench of this Court in Ext.P2 order has held that those who are in provisional service before 07.04.1970 are also eligible to get the benefit of Rule 60(b). It is common case that the petitioner can be treated as a provisional employee in the post of Chairman as on 07.04.1970. In the result, Ext.P3 is quashed. The petitioner shall be treated as having continued in service notionally upto 30.09.1993. His terminal benefits shall be revised and he shall be paid revised terminal benefits including arrears thereof from the date of retirement. He shall not be eligible for arrears of salary for the notional extension of service upto 30.09.1993. The amount found payable to the petitioner arising out of this Judgment, shall be paid to him within four months from the date of receipt of a copy of this Judgment.

The Writ Petition is disposed of as above.

11.06.2007

K.BALAKRISHNAN NAIR,JUDGE

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